



Section One

How the State will use the requirements payments to meet the requirements of Title III to improve the administration of elections.

Voting Systems

Section 301 of Title III of HAVA sets forth the standards for voting equipment and voting procedures to be used in federal elections, for the purpose of protecting the individual right to vote and assuring the accuracy of, and confidence in, the electoral process.

First, all voting systems in the United States must provide for the following: 1) a system which allows voters to review the accuracy of their selections indicated on the voting machine before the ballot is finally cast; 2) a means to allow the voter to correct any votes, including any overvotes; 3) the provision of an audit of the votes cast, or a "permanent paper trail" of the votes cast, which would facilitate a more efficient and reliable recount; 4) a means to ensure that voters with disabilities, including voters with visual impairments, will be able to vote independently without third party assistance by providing each polling place with at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities; 5) the furnishing of multi-lingual ballots in required election districts; 6) a system which produces an error rate that does not exceed the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission; 7) establishment of uniform and non-discriminatory standards as to what constitutes a "vote."

These voting system requirements must be achieved no later than January 2006. If a state applies for funds under Title I to replace lever and punch card voting machines, it must replace them in time for the November 2004 general election, unless the state applies for a waiver until January 1, 2006.

Although HAVA provides that no state is necessarily required to replace any existing lever machines or punch card machines used in the polling places, New Jersey, like other states, has determined that the lever machines will be not able to meet the new federal standards and, therefore, must be replaced. While no punch card machines are in use in the polling places in New Jersey, some counties use them for counting absentee ballots.

Under Title 19, Election Laws of New Jersey, the current statutory authority for the purchase and maintenance of voting machines in New Jersey lies with each of the State's twenty-one counties. An individual county can purchase a machine that is on the list certified by the Attorney General. Once a voting machine has been subjected to examination by a Committee appointed by the Attorney General and approved by this Office, the machine may legally be used in any election within the State.

As of this date, there are seven counties in New Jersey that use lever voting machines: Camden, Cape May, Cumberland, Essex, Hudson, Mercer¹ and Monmouth Counties. Currently, these counties own a total of approximately 3,588 voting machines, corresponding to 2,296 election districts total. These seven counties use a total of 1,402 polling places.

¹Mercer County has contracted to purchase electronic voting machines which shall be in use in 2004.

As previously indicated, there are no counties that currently use punch card machines in the polling places. Salem and Sussex Counties had used such machines up until the November 2001 General Election. After the 2000 Presidential Election, the New Jersey Legislature determined that the use of punch card machines should no longer be permitted in the polling places, and opted to purchase electronic voting equipment for those two counties. There are still two New Jersey counties, Cape May and Somerset², that continue to use punch card machines for absentee ballots. These machines should also be replaced.

In terms of an accessible voting system for voters with disabilities, including voters with visual impairments, Salem and Sussex Counties are the only two counties in the State that are fully compliant. Each of the voting machines in those two counties is fully accessible for voters with disabilities.

²While Mercer County currently has a punch card system for absentee ballots, it has just purchased an optical scan system which will be in use for the November 2003 general election.

Electoral Process Statistics by County

	Number of Registered Voters	Number of Election Districts	Number of Polling Places	Type of Voting Machine in Polling Place	Number of Voting Machines
Atlantic	136,660	161	125	Electronic	230
Bergen	476,631	554	394	Electronic	1200
Burlington	237,903	359	170	Electronic	500
Camden	292,658	331	219	Mechanical	730
Cape May	63,823	131	50	Mechanical	167
Cumberland	74,663	93	68	Mechanical	110
Essex	382,443	568	335	Mechanical	695
Gloucester	154,273	231	115	Electronic	510
Hudson	265,323	452	258	Mechanical	530
Hunterdon	72,888	111	43	Electronic	127
Mercer	186,200	284	170	Mechanical	599
Middlesex	405,706	597	245	Electronic	662
Monmouth	370,189	437	302	Mechanical	757
Morris	288,085	395	198	Electronic	805
Ocean	319,803	326	346	Electronic	704
Passaic	228,206	288	170	Electronic	420
Salem	39,051	45	132	Electronic	160
Somerset	149,266	277	132	Electronic	290
Sussex	79,746	107	78	Electronic	351
Union	257,300	443	190	Electronic	500
Warren	56,327	85	49	Electronic	95
Total	4,537,144	6,275	3,789	-	10,142

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In compliance with Title I and Title III of HAVA, all lever machines will be replaced with voting machines capable of meeting all of the federal standards. Furthermore, Atlantic County has older electronic voting equipment, which is in constant need of repair and for which some of the parts can no longer be obtained. Therefore, this is an appropriate time for that county's voting systems to be replaced. Atlantic County currently owns 230 voting machines for 161 election districts. It now has 125 polling places.

The remaining eleven counties in the State have electronic machinery. Nine of these counties have the capability to modify their existing systems to accommodate voters with disabilities, including the capacity to install audio assistance. These include Bergen, Burlington, Gloucester, Hunterdon, Middlesex, Morris, Ocean, Somerset and Union Counties. There are currently a total of 5,298 voting machines owned by these counties for a total of 3,293 election districts. There is a total of 1,833 polling places in these counties.

Passaic County and Warren County have voting machines that cannot be retrofitted to fully accommodate voters with disabilities, particularly voters with visual impairments. Passaic County currently owns 420 voting machines for 288 election districts and has 170 polling places. Warren County owns 95 voting machines for 85 election districts and has 49 polling places.

It will have to be determined if these two counties should obtain a new set of voting machines or whether they can continue to use their current machines in conjunction with a separate accessible voting system for each election district. There is legitimate concern as to whether using a different voting machine for voters with disabilities, in particular voters with visual impairments, will compromise the secrecy of their votes. There is also the administrative concern of having to program and set up two types of voting machines for each election district. These issues will require further study and input from all interested persons, including members of the disability community. Any decision must be based on the overriding interest in assuring voters with disabilities the realization of their rights as protected under HAVA. The cost differential between the two proposals should not determine the outcome of this decision.

Funds should also be dedicated for the replacement the punch card absentee ballot counters.

Because the replacement and/or modification of the above-noted affected voting machines is one of the highest priorities under HAVA, and because of the number of voting machines involved, it is anticipated that a significant amount of the replacement monies will need to be dedicated to this purpose. While the State has already received close to \$17 million of Title I funding, it is believed that amount will not be sufficient to fully cover the cost of voting machine replacement. Accordingly, a portion of Title III funds will be required for voting machine replacement and adaptation purposes. The Attorney General will develop a formula, in a manner to be determined, which will be based upon appropriate need factors to allocate a fair proportional share of federal funds. Dependent upon full federal funding over the three year period for which monies have been authorized under HAVA, it is anticipated that dedicated-HAVA funds can absorb, at a minimum, half of the counties' voting machine replacement and adaptation expenses.

It is the further intention of the Attorney General to undertake a study of the recent national discussion by computer scientists regarding the security of software programs for voting systems and the capability of a voter to view a “paper verification” of his or her votes before casting the ballot. To elaborate, there is an articulated position that all voting machines should be capable of allowing the voter to see his or her votes on a secured piece of paper. The voter would only be allowed to view this document, but not to take it out of the polling place. The document would remain in the custody of the election officials. Any such procedure would have to appropriately safeguard the secrecy of the ballot. Congressman Rush Holt of New Jersey has recently introduced federal legislation on this matter.

Statewide Voter Registration

Section 303 of Title III requires that each state implement a “single, uniform, official, centralized, interactive, computerized state-wide voter registration list that is defined, maintained and administered at the state level.” Such a system must provide for the elimination of duplicate registrations and the purging of ineligible voters, in accordance with the National Voter Registration Act, 42 U.S.C.A. 1973gg-1 et. seq. (“NVRA”).

The system must interface with the computerized records of other State agencies, such as the New Jersey Motor Vehicles Commission (“MVC”) for verification of driver’s license numbers and the New Jersey Department of Health and Senior Services for decedent verification. There must also be an appropriate interface with those agencies which can provide criminal history information, as any person who is currently serving a sentence of incarceration, on parole or on probation as the result of a conviction for an indictable offense is disqualified from voting under State law. The system will also be connected to the Social Security Administration for verification of the last four digits of a registrant’s social security number.

The system must be in place by January 2004, unless a state seeks a waiver until January 2006.

New Jersey does not now have a state-wide registration system, as defined by HAVA. In accordance with NVRA, in 1996 New Jersey did establish an interconnecting computer system among the twenty-one offices of the County Commissioners of Registration and the Division of Elections, through which counties provide the State with their master voter registration lists.

The purpose of the system is to allow the State to fulfill its reporting requirements to the Federal Election Commission with respect to the number of voter registrations received by mail and those collated from the designated voter registration agencies (such as the MVC), public assistance agencies, social service agencies, and agencies that serve people with disabilities. The State must also report the number of active, inactive and deleted voters, as defined by the NVRA.

By way of the current system, New Jersey is also able to notify the counties of duplicate registrations. Duplication can occur when a currently registered voter re-registers in a new county.



To meet the new requirements under HAVA, however, it will be necessary for New Jersey to make a major capital investment in its registration infrastructure. It will be necessary to develop and purchase all required components to have an interconnecting system among, at a minimum, the offices of the Division of Elections, the twenty-one County Commissioners of Registration, the MVC, the Department of Health and Senior Services, the Social Security Administration and those agencies with criminal history information. The twenty-one County Clerks and the 566 Municipal Clerks, who are also election officials, will need access to the system as well. There should also be consideration of interfacing with all of the other voter registration agencies in the State, so designated under the NVRA and which are identified above.

It is anticipated that this will require significant funding, although the final outlay will likely depend upon whether it is deemed appropriate to retain an outside vendor to create the system, or to have the project developed completely in-house by State Information Technology personnel. The cost factor may also vary depending upon whether maintenance and service of the system will require a vendor or will be done in-house. In any event, it is likely that a full-time technical support unit within the Department will be needed.

It will also be necessary to dedicate funds for initial training of the offices of the County Commissioners of Registration regarding the new state-wide voter registration system.

During the course of the SPC work sessions and public hearings, there were a number of discussions on the possibility of New Jersey enacting a same-day voter registration system. While there were varying opinions expressed on this matter, it was fairly understood that any rational consideration of this procedure would be dependent upon a viable statewide voter registration system. Same-day voter registration, therefore, is a concept for a later time. The enactment of a statewide voter registration system may also lead to consideration of the viability of an Internet-based voter registration system. This, too, is a concept for future consideration.

Provisional Balloting and Voting Information at the Polling Place

Section 302 of Title III creates the right of voters in federal elections to cast provisional ballots if they fail to provide the required identification information, or if they are voting after the polls close by way of a federal or state court order. New Jersey has provided for provisional balloting since 1996. The procedure originated by way of a federal consent decree for the 1996 Presidential Election. Since 1999, these original procedures have been codified into law in New Jersey. Provisional ballots are utilized for any voter who moves to another address within the county of registration and fails to notify the county commissioner of registration of the move. These ballots are also utilized if there is deficient information in the poll book for the voter, such as a missing signature. At the polling place, the provisional ballot voter is provided with a ballot and envelope on which there is a detachable affirmation statement. The provisional ballot voter completes the statement by providing his or her name, current address, former address and the reason why this

ballot is being used (i.e., either because of a move within the county or because the registration information in the poll book is not complete). All of the provisional ballots are secured at the polling place in a provisional ballot bag, and are returned, at the close of the polls, to the appropriate County Commissioner of Registration for verification. If it is determined that the person is not a registered voter, the ballot is not counted. It is common practice to send the unregistered individual a voter registration form so that he or she can register to vote in future elections.

It has been suggested that the provisional ballot law be further amended so that the provisional ballot affirmation statement could constitute a voter registration form in cases where it is determined that the person is not currently registered to vote. In other words, instead of sending the person a voter registration form to complete, the County Commissioner of Registration could use the information contained on the affirmation statement for registration purposes. This idea on its face appears to be valid, but will require further study. At a minimum, the information required on the affirmation statement would have to be expanded to include all of information required on the voter registration form.

To comply with HAVA, New Jersey will need to expand its use of provisional ballots in several ways. First, HAVA provides that any voter who casts a ballot after the close of the polls under state law pursuant to a federal or state court order, in effect ten days before a federal election, shall be voting by provisional ballot. In New Jersey, there has been a longstanding practice for the State courts to issue orders permitting a voter to cast an absentee ballot in a cases where the person is deemed eligible to vote by the court but, because of the hour of the court's ruling, is unable to timely return to the polling place. State legislation should be enacted to provide for the use of provisional ballots in all cases where a court rules on election day that a person is qualified to vote but is not able to vote in the polling place because of time constraints (e.g., the polling place is closed). Second, provisional ballots are to be used for voters who do not provide the requisite identification information as detailed below.

It is not expected at this time that the expanded use of provisional ballots will cause a significant increase in expense for the County Clerks, who are responsible for the printing of all the ballots, or for the County Superintendents of Elections or County Boards of Election who process those ballots.

Requirements for First-Time Voters who Register by Mail

Section 303(b)(1) of HAVA provides that any person who, on or after January 1, 2003, registers to vote for the first time by mail shall have to provide identification. HAVA further requires all states to be prepared to accept this identification information as of January 2003, with enforcement authority to commence as of January 2004. [Note: These HAVA identification requirements will have no force or effect for any election held in New Jersey in 2003, but will be in force for such mail-in registrants beginning with the June 2004 primary election.]

If a state does not have statewide voter registration, the identification requirement also applies to a new registration in a county. At present, New Jersey does not have a statewide voter registration system. Therefore, the identification

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requirement will apply to any voter registering in a county for the first time, even if that person had previously voted for any length of time in another county of the State.

Except as provided below, under HAVA, such voters will have to provide a form of identification at the polling place the first time they appear to vote in the county. The federal law specifies the types of acceptable identification as follows: "a current and valid photo identification," or "a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter." If the first-time voter votes by absentee ballot, a copy of one of the above identifying documents must be provided with the ballot.

The requirement to provide identification at the polling place does not apply if: 1) the state requires the registrant to provide a copy of one of the above-noted identifying documents with the voter registration form; 2) the registrant provides, along with the registration form, the driver's license number or the last four digits of the social security number; and the state is able to verify such information. If the registrant does not have a driver's license or a social security number, he or she would be able to provide a copy of one of the above-specified identifying documents; or 3) the voter is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C.A. 1973ff-1, et seq.; the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C.A. 1973ee-1(b)(2)(B)(ii); or is entitled to vote otherwise than in person under any other federal law.

Beginning with the June 2004 Primary Election, if a first-time voter who has registered by mail for the first time in the applicable jurisdiction (which, in New Jersey, is the county, as stated above) and has not previously submitted the identification information required by HAVA, the person will be asked to present a copy of an identifying document at the polling place. If such voters do not present an identifying document, they will not be permitted to vote in the voting machine, but instead will be provided a provisional ballot. If an absentee ballot voter who was required to provide identifying information did not do so by the time of the submission of the absentee ballot, that person's absentee ballot will be processed as a provisional ballot.

Several related issues which merit consideration were raised by members of the State Plan Committee. One issue concerns the extent of the applicability of the identification requirement. Current New Jersey law imposes no identification requirement as part of the registration process or for first-time voters. Support was expressed for the position that this requirement not be extended beyond the requirements of HAVA to apply to those voters who do not use the mail for delivery of their registration application. Concern has been expressed that extending the identification requirement could have the effect of frustrating voter registration.

In addressing the State's interest in enhancing accountability in the registration process, consideration should be given to requiring an appropriate third party certification in cases where an application is delivered by a person other than the applicant.

A second issue concerns the point in the election process at which the requisite voter information should be requested, i.e., at the polling place or at the time of registration. As a matter of convenience for the affected voters who must

present identification in accordance with HAVA, as well as for the convenience for the other voters who will appear to vote at the polling place on an election day and who might otherwise be delayed, the identifying information should be requested during the registration process.

The final issue concerns the types of identifying documents that should be accepted from those registrants who are unable to provide either a driver's license number or the last four digits of their social security numbers. New Jersey should take an expansive view of this requirement, so that no qualified registrant is unduly burdened because he or she does not possess conventional identifying documents. Recognizing that not every appropriate document can be legislatively enumerated, the Attorney General should be accorded the authority to issue an expansive and comprehensive list that may be updated to include credible and reliable documents that are issued or identified in the future.

“Free Access” System

There is another Title III provision regarding provisional ballots, however, which will require the establishment of a procedure new to New Jersey. Each voter who casts a provisional ballot, as of the 2004 Primary Election, will be entitled to make use of a “free access” system, to be established by the Attorney General, to ascertain whether his or her ballot was counted and, if not, the reason for rejection. This could be accomplished by way of a toll-free telephone number or by the Internet, to establish such notification process for provisional ballot voters, as well as for absentee ballot voters. Such a procedure will likely require the expenditure of federal funding. This system must also be accessible to voters with disabilities. For example, any telephone system must include a TTY phone number and any Internet-based system must be similarly accessible to voters with disabilities. It is anticipated that Title III funds will be used for this purpose.

New Jersey also will be required, under Title III, to expand the number of notices provided in a polling place on election days. There will be a cost factor for such implementation. Under New Jersey's current practice, sample ballots, which include the hours and day of the particular election, must be posted in every polling place. There is also the required notice of the challenge procedure, voting machine instructions, and the availability in the polling places of complaint forms with stamped return envelopes pre-addressed to the applicable County Commissioner of Registration.

In accordance with Title III, as of the June 2004 Primary Election, each polling place will also be required to provide a notice of the identification requirements for first-time voters, and a Notice of Rights to all voters, which identifies the office to contact with any complaints or questions and provides general information regarding federal and state laws concerning electoral fraud and misrepresentation.

The Attorney General will design these new notices to ensure uniformity and consistency. The Attorney General will incur administrative costs, including personnel, to perform this task. Therefore, some Title III money will be expended on this statutory requirement.



Voter Registration Application and other Election Forms

Pursuant to Section 303 of HAVA, all mail voter registration forms must include check-off boxes as to minimum age and citizenship of the applicant. If the applicant answers “no” to either being 18 years of age or having United States citizenship, there is to be a statement on the form advising the applicant not to submit the document. The voter registration form should also have a provision for the registrant to provide his or her driver’s license number or last four digits of the social security number. There must also be notice requirements regarding identification requirements for first-time voters who register by mail.

Such items are not currently included on New Jersey’s form, which is used for all registration purposes whether it be a mail-in or an in-person process. Any legislation to authorize the Attorney General to redesign the form should specify that the form should be fully inclusive as to the type of identifying document that will be acceptable so that no qualified registrant is disenfranchised because he or she may not have common identifying documents. The absentee and provisional ballot materials will also need to be revised to include the information relating to identification requirements. Consideration should also be given to developing a standardized format for voting machine ballots.

Modification of Forms for Voters with Disabilities

Consistent with one of the principal purposes of HAVA to allow for full access to the electoral process by voters with disabilities, election forms, such as the voter registration application, the sample ballot as well as the absentee and provisional ballot materials, must be provided in alternative forms, such as large print, braille and audio. It has also been suggested that the voter registration application could include provisions to permit an applicant to “check-off” if he or she requires accommodations or alternate forms of election materials, or to indicate that he or she uses a rubber signature stamp in lieu of a handwritten signature. Accordingly, it is anticipated that a portion of Title III funds will be utilized for the design and printing of these materials.

Education and Training

As detailed in Section Three of the Plan, New Jersey intends to formalize its training for election officials, in particular; the County Boards of Election, the County Clerks and the County Superintendents of Elections, along with key personnel in those offices, to ensure consistent and informed application of law. Section Three of this Plan also details the manner in which New Jersey plans to upgrade and expand its voter outreach to increase electoral participation for all voters. It is anticipated that increased training and public outreach will require the expenditure of public funds, including Title III monies, and that such funds will also be required to employ and train sufficient support staff at the State level to monitor and oversee these activities.

Voting Systems Standards		
HAVA Requirements	Current Status	Action Planned
All voting systems shall permit a voter to verify/review choices before ballot is cast	Partially meets the requirement With lever and electronic machines, voter can review before the red mechanical is pulled or electronic "cast vote" button is pushed. See comments below regarding paper ballots	Voter Education Program for paper ballots
Allow voter to change or correct any error on the ballot before casting it	Partially meets the requirement Capable with lever and electronic machines Paper ballot procedures used in all polling places (provisional and emergency); and the Optech III-Eagle (mark-sense paper ballot system) used in Warren County permit the issuance of duplicate ballots for errors or corrections. Absentee ballot procedure does not currently meet the standard. If the voter makes an error and marks the ballot to change it, the ballot may be considered "marked" and not counted. In practice, a voter may contact the county clerk for a duplicate ballot, but there is no notice to that effect on the absentee ballot materials.	Voter Education Program for paper ballots
Prevent or alert voter if there is an overvote	Partially meets requirement Lever and electronic machines are programmed to prevent overvoting There is currently no notification for all paper ballots as to the effect of an overvote	Voter Education Program for paper ballots
All voting systems must be able to produce a paper audit trail of all votes cast	Meets the requirement	No action planned for this reason
Voting systems must be accessible for individuals with disabilities, including those with visual impairments, to permit such person to vote independently and confidentially	Partially meets the requirement Of the 21 Counties, only Salem and Sussex counties meet the requirement	Update existing voting systems or purchase new voting systems
Voting systems shall provide for alternative language accessibility pursuant to section 203 of the Voting Rights Act of 1965	Seven Counties are under this federal mandate. The ballots are to be in English and Spanish in the required districts In all election districts in the State, where 10% or more of the registered voters have Spanish as their primary language, the sample ballots must be bi-lingual	For those federally-mandated Counties where there will be machine replacement, the State will require such capability
All voting systems shall have error rates that do not exceed the Federal Election Commission standards to be established	Partially meets the requirements	Voting system replacement where required, in particular the replacement of the lever machine
A uniform definition of what constitutes a vote for each voting system used in the state	State law defines "vote" for paper ballots, lever and electronic ballot card systems	Consideration of legislative amendments and/or regulations for newer electronic voting systems

Provisional Ballots & Polling Place Information

HAVA Requirements	Current Status	Action Planned
Provisional ballots to be available in polling place for person who claims eligibility but for whom there is no record; or for voter who does not provide required identification information; or for voter who votes by court order after the close of the polls	Provisional ballots are available for voter who moves within county but did not provide notification; or for voter for whom there is deficient information in the poll book Voters typically vote with absentee ballot by court order after the polls close	Legislative enactments to expand use of this ballot
Free access system to provide notice of provisional ballot disposition/notice to be given in polling place to provisional ballot voter as to how to ascertain disposition of ballot	Does not meet requirement	Legislation-should include absentee and provisional ballots
Sample ballot to be posted in polling place	Required	No action to be taken
Day and time of election to be posted in polling place	In sample ballot; Separate notice not required	Could be accomplished by legislation
Notice in polling place of voting Rights under federal and state law	Not required	Could be accomplished by legislation
Notice of federal and state laws regarding fraud and misrepresentation	Not required	Could be accomplished by legislation
Posting of instructions for first-time voters	Not required	Could be accomplished by legislation
Voting Instructions for machine and provisional ballots	Required for voting machines, not for provisional ballots	Could be accomplished by legislation for provisional ballots

Statewide Registration System

HAVA Requirements	Current Status	Action Planned
Single uniform, official, centralized, interactive, computerized statewide voter registration system	Not required	To be Implemented by State

Voter Registration Requirements

HAVA Requirements	Current Status	Action Planned
First-time registrants after January 1, 2003, must provide requisite identification	Not required	Conform to HAVA requirements